

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

(Chapter VIII Rule 32 (2)(b))

Description of the case.

Writ Petition No. 198 of 2004 (S/B)

Date of decision: 2nd August, 2004

For the approval of:

Hon'ble Chief Justice V.S. Sirpurkar.

Hon'ble Mr. Justice Irshad Hussain.

- Whether the order/judgment should be sent to the reporters for reporting? ()
- Whether the reporters be allowed to see the judgment? ()

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 198 of 2004 (S/B)

Shri Manoj Kumar Gupta,
S/o Shri J.P. Gupta,
R/o A-6 Kewal Vihar,
Shasthradhara Road, Dehradun. Petitioner

Versus

State Industrial Development Corp. of Uttaranchal Ltd.,
(SIDCUL) through its Managing Director,
Corporate Office, M-16,
Chandralok Colony, Rajpur Road,
Dehradun & others. Respondents

Mr. S.K. Jain, learned counsel for the petitioner.
Mr. Sudhanshu Dhulia, learned Senior Advocate assisted by Ms. Puja Banga,
Advocate for the respondents.

**Coram: Hon'ble V.S. Sirpurkar, C.J.,
 Hon'ble Irshad Hussain, J.**

Dated: August 02, 2004

(Per Hon'ble the Chief Justice)

1. This writ petition is by a Company Secretary, who was appointed in pursuance of his selection. As such, the appointment was to be a contractual appointment and was terminable by either side with three months' notice. The petitioner was also to get the perquisites along with his salary. The petitioner says that though his appointment was made by the Board of Directors, there was no resolution passed by the Board of Directors for terminating his service and therefore, the order passed by the Managing Director terminating his service, would be, per se, bad. He also complains that no perquisites were given to him as were payable to other officers.

2. Mr. Sudhashu Dhulia, learned Senior Advocate appearing on behalf of respondents, by way of counter affidavit, points out that the order of termination dated 30.6.2004 was reported to the Board of Director on 2.7.2004 i.e. barely after two days and the Board of

Director gave their approval on 2.7.2004, itself. Though Mr. S.K. Jain, learned counsel for the petitioner very seriously opposes this, but there is no reply filed by him denying this fact.

3. Since, the appointment was contractual and since the contract provided that the appointment was terminated by three months' notice by either side, we don't think there is anything wrong if the termination is effected by the Company with the order of the Managing Director. As regards the Board's approval, it is clear that the Board has given the approval only within two days and therefore, there will be no question of any illegality on this count also. So far as the perquisites are concerned, learned counsel for the respondents says that all the perquisites have been given, however, he very fairly suggest that if any perquisites are payable, the petitioner may approach in that behalf and if those perquisites are payable to the petitioner under the Rules as in the case of other officers, the same shall be paid to him without any delay.

4. A reliance was made by the learned counsel for the petitioner in the case of Haryana Seeds Development Corporation Ltd. & others Vs J.K. Aggarwal reported in 1991(2) SCC 283. However, in that ruling there was no subsequent approval by the Board. Therefore, this ruling is not applicable in the present case.

5- The only direction, therefore, that we would pass is we will give a liberty to the petitioner to approach the respondents for the perquisites.

6. The writ petition has no merit and it is dismissed finally. No order as to costs.

(Irshad Hussain, J.) (V.S. Sirpurkar, J.)

Dt. 2.08.2004

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